

**REMARKS**

**General Remarks**

Claims 1-15 are all the claims pending in the application.

In response to Applicant's request, the Examiner has reviewed and considered the references cited in the Information Disclosure Statement filed January 16, 2001.

**Allowed Claims and Allowable Subject Matter**

In the current Office Action, the Examiner maintains his position that Claims 2-5, 8, and 9 contain allowable subject matter and would be allowed if re-written into independent form including the limitations of the claims from which they depend. Applicant respectfully requests that the rewriting of these claims be held in abeyance until the Examiner has reconsidered Applicant's arguments, presented herein, with respect to independent Claims 1 and 7.

The Examiner also indicates that new claims 11-14 are allowed.

**Claim 15**

Claim 15 stands rejected under 35 U.S.C. § 112, second paragraph as allegedly incomplete for omitting essential steps.

Under MPEP 2172.01, "a claim which fails to interrelate essential elements of the invention as defined by applicant(s) in the specification may be rejected under 35 U.S.C. § 112, second paragraph for failure to particularly point out and distinctly claim the invention."

Contrary to MPEP 706.03(d), the Examiner has failed to complete the required form paragraph 7.34.12. The Examiner has failed to recite the steps omitted from the claims and has failed to "Give the rationale for considering the omitted steps critical or essential." (MPEP 706.03(d)).

The Examiner asserts that “the omitted steps are unknown since none were set forth.” If the Examiner intends this to mean that there are no steps recited in the specification to be essential, Applicant respectfully notes that therefore, no essential steps could have been omitted from Claim 15. If, however, the Examiner intends this to mean that the omitted steps can’t be explained because they were omitted from Claim 15, Applicant respectfully submits that MPEP 2172.01 specifically states that the Examiner should recite those steps *omitted* from the claims and explain why those steps are critical or essential. Further, Applicant respectfully submits that Claim 15 does not omit any essential steps of the present invention.

Therefore, Applicant respectfully requests that the Examiner particularly point out and explain any specific steps described as essential in Applicant’s specification which have been omitted from Claim 15.

With this Amendment, Applicant amends Claim 15 for purposes of clarification. No new matter is added.

In view of at least the above, Applicant respectfully requests that the rejection of Claim 15 under §112, second paragraph be reconsidered and withdrawn.

**Claims 1, 6, 7, 10, and 15.**

Claims 1, 6, 7, 10, and 15 stand rejected under 35 U.S.C. § 102(e) as allegedly anticipated by Nakajima, U.S. Patent No. 6,701,011 (“Nakajima”). Applicant respectfully traverses this rejection.

In general, Applicant submits that there is a significant difference between the presently-claimed invention and that described in Nakajima. This was previously set forth at page 13 of

Applicant's Amendment of August 19, 2004, the entirety of which is incorporated herein by reference. Applicant submits that according to the present invention, portions or "objects," which are smaller elements within a larger color image are separately selected from the image as a whole for color correction. (Independent Claims 1, 7, and 10 each recite carrying out floor correction "upon a specific object in a color image." Claim 15 recites "wherein the color correction parameters are obtained based on only a range of color distribution of a specific object.") For example, the skin color of a person depicted in an input image may be specifically selected as the object for correction within the larger image, such that only the skin color is corrected, while the color in the remaining portions of the larger image remain unaffected. In contrast, each embodiment of Nakajima clearly describes color correction being applied to a single image as a whole. There is no disclosure or suggestion in Nakajima of performing color correction on a portion within a color image or a smaller object within a greater color image.

In the present Office Action, the Examiner has failed to respond to these arguments presented in Applicant's August 19 Amendment. Rather, the Examiner merely repeats, verbatim, the arguments presented in the May 19 Office Action. In the repeated arguments, the Examiner refers to col. 12, lns. 25-30 and to col. 10, lns. 60-67 as disclosing applying color processing to a specific object within a larger image. As presented in Applicant's August 19 Amendment, the referred-to embodiments of Nakajima describe a user selecting an object to be processed from a number of objects. However, the objects which can be selected are not portions of an image or smaller objects within a larger image. Rather, the objects from which the user may select are a photo, graphics, or text. There is no disclosure or teaching anywhere in Nakajima of an ability to

perform color processing on only a portion of a color image, as claimed. In light of the Examiner's failure to respond to these arguments presented in Applicant's August 19 Amendment, Applicant respectfully requests that the Examiner's §102(e) rejections be reconsidered and withdrawn, or that the Examiner further explain how Nakajima discloses this specifically-claimed limitation.

For at least these reasons, Applicant submits that Nakajima fails to anticipate the present invention as recited in independent Claims 1, 7, 10, and 15. Applicants submit that Claim 6 is patentable at least by virtue of its dependence on Claim 1. Therefore, Applicant respectfully requests that the rejection of Claims 1, 6, 7, 10, and 15 be reconsidered and withdrawn.

Regarding Claims 1, 7, and 10, Applicant further submits the following:

Regarding Claim 1 and as submitted at page 14 of Applicant's August 19 Amendment, Applicant further submits that Nakajima fails to disclose or suggest representative color extracting means, as claimed, for extracting a representative color from a given input image. In the May 19 Office Action, the Examiner asserted that process parameter switch 132 of Nakajima disclosed this limitation. In response, in the August 19 Amendment, Applicants noted that, as described in Nakajima, the process parameter switch 132 switches the address information of a current image and of eight surrounding images based on the adjustment of the current image in response to user input. (Col. 9, lns. 18-23). In other words, when a user makes an adjustment to the current image, according to Nakajima, the switch 132 re-adjusts the parameters of the surrounding images according to the adjustment to the current image. (Figure 8, col. 9, lns. 18-

23). Therefore, Applicant noted, “The switch is unrelated to a color extracting means, as claimed.”

In the current Office Action, in response to the above arguments, the Examiner asserts that the Nakajima switch 132 is, indeed related to color. Applicant notes that there is no contention regarding whether the switch 132 is related to color. Indeed, as described, if a user were to adjust the color of a current image, the switch 132 would adjust the color parameters of the surrounding images accordingly. However, Applicant asserts that the switch 132 is unrelated to a color extracting means, as claimed. As claimed, the color extracting means extracts a representative color of a specific object from a given image. In other words, given an entire color image, the color extracting means extracts a single color of a specific object within the given image without affecting the remainder of the image. Applicant asserts that there is no disclosure or suggestion in Nakajima that the switch 132 or any other element as described in Nakajima extracts a representative color of a specific object from a given image. Rather, as noted above, Nakajima is directed to processing an entire input image as a whole.

Regarding Claim 1 and as submitted at pages 14-15 of the August 19 Amendment, Nakajima fails to disclose or suggest a color correction parameter determining means for determining, from memory content, an optimum color correction parameter, as claimed. In response to Applicant’s arguments that Nakajima fails to disclose or suggest determining an optimum color correction parameter from memory, and rather describes that any color correction applied to an image is selected by a user, the Examiner asserts that “a user could rely on data

stored in memory to make adjustments to a correction parameter until the user fin[d]s a correction parameter that works optimally for him or her.”

In response to this argument, Applicant notes that rejections under 35 U.S.C. § 102 are proper only when the claimed subject matter is identically disclosed or described in the prior art. Thus the reference must clearly and unequivocally disclose every element and limitation of the claimed invention. The Federal Circuit holds that a claim is anticipated only if each and every element as set forth in the claim is found either expressly or inherently in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). In fact, the identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicant submits that there is no express disclosure in Nakajima of any means for determining a color correction parameter from memory content. Further, such disclosure is not inherent in the disclosure of Nakajima, and, even assuming *arguendo* that a user of the Nakajima apparatus could access a color correction memory, the mere idea that a user *could* refer to a memory in the selection of a color correction parameter, fails to render such a disclosure inherent.

Regarding Claims 7 and 10, Applicant submits that these claims are additionally patentable for at least the same reasons as presented above with respect to Claim 1.

## Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

AMENDMENT UNDER 37 C.F.R. § 1.116  
U.S. Application No. 09/666,801

Q60955

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

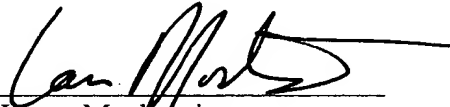
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**23373**

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